

Office of Workers' Compensation Programs Portland District

Point of Contact:

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FECA (Federal Employees' Compensation Act)

In 1908, President Theodore Roosevelt signed legislation to provide workers' compensation for certain Federal employees in unusually hazardous jobs. The scope of the law was very restricted and its benefits were quite limited. However, it was the first workers' compensation law to pass the test of constitutionality applied by the U.S. Supreme Court. The FECA, which superseded the 1908 statute in 1916, is a workers' compensation law for all civilian Federal employees. It provides for wage loss compensation, medical care and survivors' benefits.

Mission Statement

The purpose of the Federal Employees' Compensation Program is to provide Federal employees who sustain work-related injury or disease with adequate and timely benefits for medical care and wage loss replacement, as well as assistance in returning to work where necessary. The program's customers include both injured workers and their employing agency.

General Provisions of the FECA (not a comprehensive list)

Definition of Injury. The term "injury" includes all diseases proximately caused by employment as well as damage to or destruction of medical braces, artificial limbs and other prosthetic appliances. Aggravation of a pre-existing condition by the employment is also compensable. CA-1 is filed for a Traumatic Injury; CA-2 is filed for an Occupational Disease.

Basic Requirements for Eligibility. Each claim for compensation must be filed within three years of the date of injury, except where the official superior had actual knowledge of the injury within 30 days of its occurrence. The claimant must be a civil employee, and an injury must have resulted from the incident claimed. Finally, the injury or disease must have occurred in performance of the claimant's duties, and it must be causally related to factors of employment.

Medical Care. An injured employee who meets the statutory conditions of coverage entitled to all medical care which is required to cure, give relief, or reduce the degree or period of disability. No dollar maximum or time limitation is placed on medical care, which will be provided as long as the evidence indicates it is needed for the effects of the job-related injury.

Continuation of Pay. An employee who sustains a disabling job-related traumatic injury is entitled to continuation of regular pay (COP) for a period not to exceed 45 calendar days. To qualify for COP, the injured employee must file written notice of injury and claim for COP within 30 days of injury. COP is not considered compensation and is subject to taxes and other payroll deductions. The employee must make separate claim for monetary compensation if the disability exceeds 45 days or results in any permanent disability.

Compensation. Generally, for total disability an employee with no dependents is entitled to compensation equivalent to two-thirds of the weekly salary, while an employee with one or more dependents is entitled to three-fourths of the salary. Certain additional amounts, such as premium pay, night and Sunday differential, dirty work pay, and hazard duty pay, may be included in salary. Overtime pay, however, cannot be included. A specific formula is applied in

cases where the employee is a part-time worker, an unpaid volunteer temporary, temporary employee, or a person working in a similar category. Compensation payments for total disability may continue as long as the medical evidence supports such payment.

Schedule Awards. The FECA also provides for payment of compensation for permanent loss or loss of use (either partial or total) of certain internal organs and member functions of the body such as arms, legs, hands, feet, fingers, toes, eyes, and loss of hearing and loss of vision. Each extremity or function has been rated a specific number of weeks of compensation which can be paid even though the employee returns to work at full salary. Where a serious disfigurement of the head, face, or neck results from a job-related injury, an award may also be made for such disfigurement, not to exceed \$3,500.

Three Appeal Avenues for an Employee who disagrees with an OWCP formal Decision.

Employee will be notified by letter of the acceptance of his or her case, if disability is expected to ensue or continue. The letter will state the condition for which the claim is accepted and advise how to claim compensation benefits and payment or reimbursement of medical bills. During the life of a claim, decisions may be rendered on various issues. Employees are usually notified by letter about such matters as approval or denial of surgical procedures and other forms of medical care, and payment of medical bills by OWCP. Any determination, whether affirmative or negative, which sets forth OWCP's findings with respect to the case and which includes a description of the employee's appeal rights is known as a formal decision. Three avenues of appeal are provided for employees; the agency is not entitled to appeal. The employee may request only one form of appeal at a time.

1. **Hearing:** The employee is entitled to either an oral hearing before an office representative or a review of the written record (but not both), as long as written request is made within 30 days of the formal decision, and a reconsideration has not already been requested. The employee may change his or her hearing request in writing within 30 days of OWCP's acknowledgement of the initial request. The request should be sent to the Branch of Hearings and Review **at the address included with the appeal rights**; no special form is needed. If an oral hearing is requested, it will be held within 100 miles of the employee's home and he or she may present written evidence or oral testimony in support of the claim. If a review of the written record is selected, the employee may not present oral testimony, but may submit written evidence or argument. If an oral hearing is requested the agency will be notified when it is scheduled and advised that it may request a copy of the transcript and/or send a representative to the hearing. If a review of the written record is requested, the agency representative will be given 15 days to submit comments and/or additional documents, which will be subject to review and comment by the employee within an additional 15 days.
2. **Reconsideration:** The employee may ask OWCP to reconsider a formal decision made by the district office. The request should be addressed to the district office handling the claim; no special form is required, but the request should clearly state the ground on which it is based. It must also be accompanied by relevant evidence not previously submitted or arguments for error in fact or law in reaching the contested decision. A reconsideration must be requested within one year of the date the contested formal decision was issued. For any request which meets these criteria, OWCP will provide the agency representative, with a copy of the employee's request, and allow 15 days for submission of comments and/or documents, which will in turn be subject to employee review and comment within 15 days. Following OWCP reconsideration, a new formal decision, which includes a description of the employee's further appeal rights, will be issued.
3. **Review by Employees' Compensation Appeal Board (FECA).** An employee may request review by the ECAB, which is the highest authority in Federal workers' compensation claims. The employee should file for such review directly with the ECAB at the address included with the formal decision. The ECAB's review is based solely upon the case record at the time of the formal decision; new evidence is not considered. Employees residing within the continental United States or Canada should file application for review within 90 days of the date of the decision. Employees residing elsewhere should file within 180 days of the date of the decision. For good cause shown the ECAB may excuse failure to timely file an application for review if it is filed within one year of the date of the decision.

**EFFECTIVE January 4, 1999
ACTUAL OWCP POLICY CHANGES
20 CFR 10**

REFERENCE	NEW POLICY
<u>Continuation of Pay (COP)</u>	
Time to Use--Section 10.205	-Use of COP must begin within 45 days after injury.
Recurrence--Section 10.207	-For a recurrence, use of any remaining days must begin within 45 days of first return to work. Must submit a Ca-2a.
Termination of COP--Section 10.222	-Employer may terminate COP when a preliminary notice of a disciplinary action has been issued before the injury and becomes final or otherwise effective during the COP period.
Submission of Medical Report-- Section 10.210(b)	-Reduces the time allowed for employee to provide the employer with a medical report supporting disability to 10 <u>calendar</u> days.
Sunday Pay--Section 10.217	-Sunday premium pay may no longer be included in COP for DoD employees.
<u>Forms</u>	
CA-1/CA-2--Section 10.110	-Employer required to provide employee with copies of both sides of Forms CA-1/CA-2, along with Receipt of Notice.
CA-7/CA-7a	-Form CA-7a is required with Form CA-7 if COP or leave for which leave buyback is not being claimed was paid intermittently.
CA-8 & CA-20a Sections 10.7,10.102; Bulletin 99-18	-Forms CA-8 and CA-20a have been eliminated. Forms CA-7 and CA-8 have been combined. Direct Deposit form SF-1199a should be submitted with Form CA-7.
CA-16--Section 10.303	-Form CA-16 is not to be issued for medical testing for an employee who has merely been exposed to a work-place hazard, unless the employee has sustained an identifiable injury or medical condition.
<u>Hearings</u>	
Transcript--Section 10.617	-Claimant and agency have 20 days to comment on the hearing transcript.
Attendance--Section 10.631	-One or more agency personnel can attend a hearing.
Postponement--Section 10.622	-Postponements only under specific circumstances.
Telephonic--Section 10.615	-An oral hearing may be conducted by telephone or teleconference at the discretion of the hearing rep.

Change in Hearing Format--
Section 10.616(b)

-Claimant must request change in hearing format (e.g. oral hearing to review of written record or vice versa) within 30 days after H&R has acknowledged the the initial hearing request.

Reviews of Written Record--
Section 10.618

-Claimant and agency have 20 days to comment on factual evidence submitted with requests for review of the written word.

Job Offers

Section 10.507©

-The employing agency may continue to make verbal job offers. However, a written offer must be provided within 2 business days.

Medical Bills

Billing Forms--Section 10.801

-Required billing form for hospitals=UB92.
-Required billing form for pharmacies=Universal Claim Form.
-Required billing form for Doctors=HCFA-1500

Fee Schedule--Section 10.805;
Bulletin 99-07

-OWCP's medical fee schedule has been expanded to include pharmacy and inpatient hospital bills.
-Unlike other FECA fee schedules, the allowable fee paid for hospital inpatient bills may be **MORE OR LESS THAN** the billed amount.

Excess Charges--Section 10.337©

-OWCP may reimburse excess charges to employee under certain circumstances (will probably be done only once).

Generic Medications--Section 10.310

-OWCP has the authority to require the use of generic medications where they are available.

Medical Examinations

Obstruction--Section 10.323, 10.501(b)

-Action of representative is considered to be action of employee.
-Benefits will be suspended for failure to undergo noninvasive testing requested by OWCP.

Second Opinions--Section 10.320

-Claimant is not entitled to have anyone attend examinations (except for a physician of choice) unless there are exceptional circumstances.

Nurses Services

-Nurse services are not included in the definition of vocational rehabilitation and sanctions may be applied for refusal to cooperate.

Reconsiderations

-Claimant and agency have 20 days to comment on factual evidence submitted in support of reconsideration requests.

Physician Contacts

-Prohibits the employer from contacting the doctor

Schedule Awards

Section 10.103

other than in writing.

-If Form CA-7 has already been filed to claim disability compensation, an employee may file a claim for permanent impairment/schedule award by sending a letter to OWCP which specifies the nature of the benefit being claimed.

Internet Address' for information and/or forms:

1. <http://gatekeeper.dol.gov/dol/esa/public/regs/compliance/owcp/forms.htm>
2. <http://gatekeeper.dol.gov/esa/public/regs/status/owcp/feca.htm>
3. <http://www.dol.gov./dol/esa/public/regs/compliance/owcp/fecacount.htm>
4. <http://www2.dol.gov/dol/esa/public/regs/compliance/owcp/pharmacy.htm>
5. <http://www2.dol.gov/dol/esa/public/regs/compliance/owcp/fecb9810.htm>